

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed September 19, 2006. At the time of the Final Office Action, Claims 1-8, 10 and 11 were pending in this Application. Claim 9 was previously cancelled without prejudice or disclaimer. Claims 1-8, 10 and 11 were rejected. Claims 1 and 7 have been amended. Claims 3, 4, and 8 have been cancelled without prejudice. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 1-8, and 10-11 were rejected under 35 U.S.C. §103(a) as being unpatentable over PCT International Application Publication WO 00/52658 filed by Daniel Aljadeff ("Aljadeff") in view of U.S. Patent 6,563,910 issued to Raymond J. Menard et al. ("Menard") and further in view of U.S. Patent 6,910,024 issued to Srikanth Krishnamurthy et al. ("Krishnamurthy") and also U.S. Patent 6,414,955 issued to Loren P. Clare et al. ("Clare"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Applicant amended independent claims 1 and 7 to include the limitations of former claims 3 and 8, respectively. Thus, no new matter has been introduced into the current set of claims. Dependent claims 3 and 8 have been cancelled without prejudice.

Upon the last response, the Examiner acknowledged that the cited prior art of Aljadeff, Menard, and Krishnamurthy do not disclose the limitation of "waiting by each bidirectional subscriber that has received the message for a period of time individually assigned to the subscriber..." See office action dated 9/19/2006, page 5, line 9-13. Former dependent claims 3 and 8 include the additional limitation that "the order of the wait times and thereby the wait times of the bidirectional subscribers is defined by their address within the radio cell." Thus, this limitation refers to the period of time individually assigned to the subscribers. However, the rejection of claims 3 and 4 is only made in view of Aljadeff, Menard, and Krishnamurthy. Therefore, this rejection cannot stand because none of the cited art Aljadeff, Menard, or Krishnamurthy disclose individually assigned time slots. Thus, as a matter of fact, these references simply cannot define the order of individually assigned time slots because they do not disclose individually assigned time slots.

A closer look at the cited passages used in the rejection of claims 3 and 8, namely Krishnamurthy, col. 6, lines 44-46 reveals that only an address is appended to an address list. However, such disclosure has nothing to do with the limitations of former claims 3 and 8. Therefore, none of the cited prior art discloses the limitations of former claims 3 and 8.

Because former dependent claims 3 and 8 have been incorporated into independent claims 1 and 7, respectively, these claims are not obvious in light of the cited prior art. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper. Hence, allowance of all pending claims is respectfully requested.

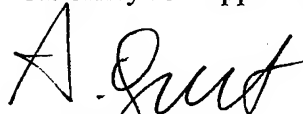
CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney, Andreas Grubert, at 512.322.2545.

Respectfully submitted,
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